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TITLE 370 STATE EGG BOARD

Proposed Rule

LSA Document #01-419

DIGEST

Amends 370 IAC 1 concerning requirements for processing, transportation, and consumer container identification for shell eggs, including updating matters incorporated by reference. Adds a requirement for safe handling instructions for egg cartons. Makes other substantive and technical changes. Effective 30 days after filing with the secretary of state.

370 IAC 1-1-1	370 IAC 1-3-4
370 IAC 1-1-2	370 IAC 1-4-1
370 IAC 1-1-3	370 IAC 1-4-2
370 IAC 1-1-4	370 IAC 1-4-3
370 IAC 1-1-5	370 IAC 1-5-1
370 IAC 1-2-1	370 IAC 1-6-1
370 IAC 1-2-2	370 IAC 1-8-1
370 IAC 1-2-3	370 IAC 1-9-1
370 IAC 1-3-1	370 IAC 1-10-1
370 IAC 1-3-2	370 IAC 1-10-2
370 IAC 1-3-3	

SECTION 1. 370 IAC 1-1-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-1 Applicability of state standards

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. The official Indiana standards for the quality of shell eggs contained in this ~~subpart~~ **rule** are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell. (*State Egg Board; Reg 1, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.; Rules and Regs. 1974, p. 81; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 2. 370 IAC 1-1-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-2 Applicability of state standards to interstate or foreign commerce

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. ~~U. S. Public Law 91-597 91st Congress H. R., 19888, December 29, 1970~~ **The Egg Products Inspection Act (21 U.S.C. 1031 through 21 U.S.C. 1056)** provide, Sec. 23, (b) "For eggs which have moved or are moving in interstate or foreign commerce, (1) no State or local jurisdiction may require the use of standards of quality, condition, weight, quantity, or grade which are in addition to or different from the official Federal standards, **(2) with respect to egg handlers specified in paragraphs (1) and (2) of section 5(e), no State or local jurisdiction may impose temperature requirements pertaining to eggs packaged for the ultimate consumer which are in addition to, or different from, federal requirements,** and (3) no state or local jurisdiction other than those in **noncontiguous** areas of the United States may require labeling to show the state or other geographical area of production or origin: Provided, however, that this shall not preclude a state from requiring that the name, address, and license number of the person processing or packaging eggs, be shown on each container." (*State Egg Board; Reg 1, Title I, Sec 2; filed Aug 14, 1973,*

1:30 p.m.: Rules and Regs. 1974, p. 82; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 3. 370 IAC 1-1-3 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-3 Uniform grade standards; adoption of federal standards

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 3. Therefore in the interest of maintaining uniform grade standards in ~~the State of~~ Indiana, the state egg board hereby adopts the ~~U.S.~~ **United States** Standards, Grades, and Weight Classes for Shell Eggs promulgated by the ~~U.S.~~ **United States** Department of Agriculture (~~7 CFR Part (AMS 56)~~ **(AMS 56)**) as the official standards for quality, grade, and weight classes for ~~the State of~~ Indiana, including (~~7 CFR Part 59~~) **57**) Regulations Governing the Inspection of Eggs. ~~and Egg Products.~~ (State Egg Board; Reg 1, Title I, Sec 3; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; errata, 9 IR 779; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 4. 370 IAC 1-1-4 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-4 Candling; Haugh unit value

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 4. ~~Candling.~~ Interior egg quality specifications for ~~these standards~~ **this section** are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable consistently accurate determination of the interior quality of shell eggs. It is desirable to break out an occasional egg and to determine the Haugh unit value of the broken out and candled appearance thereby aiding in correlating candled and broken out appearance. (State Egg Board; Reg 1, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 5. 370 IAC 1-1-5 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-1-5 Haugh measurements

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 5. ~~Haugh Measurements.~~ Specifications for measuring the thick albumen condition is based on the use of a specially designed micrometer or slide rule to determine the relationship between the weight of an egg and the height of the thick white. The readings are taken in units ranging from **zero (0)** to **one hundred (100)** after the egg has been broken out on a flat ~~glass~~ surface. (State Egg Board; Reg 1, Title II, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 6. 370 IAC 1-2-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-2-1 Temperature requirements; dealer facilities

Authority: IC 16-42-11-5

Affected: IC 16-42-11

Sec. 1. Every registered person, partnership, firm, or corporation permitted to handle or sell eggs under the provisions of ~~IC 16-6-1~~ **IC 16-42-11** shall, upon delivery, provide adequate space and storage facilities to hold shell eggs at an ambient temperature of forty-five (**45**) degrees Fahrenheit (~~45°F~~) or below. (State Egg Board; Reg 2, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1775; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 7. 370 IAC 1-2-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-2-2 Temperature requirements; retail stores

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. Upon delivery, shell eggs at the retail store shall be stored and displayed at an ambient temperature of forty-five (45) degrees Fahrenheit (~~45°F~~) or below. (*State Egg Board; Reg 2, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 8. 370 IAC 1-2-3 IS ADDED TO READ AS FOLLOWS:

370 IAC 1-2-3 Temperature requirements; transportation

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 3. All eggs packed in containers for the purpose of resale to consumers shall be transported under refrigeration at an ambient temperature no greater than forty-five (45) degrees Fahrenheit or seven and two-tenths (7.2) degrees Celsius. (*State Egg Board; 370 IAC 1-2-3*)

SECTION 9. 370 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-1 Wholesale packaging and labeling

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. The eggs shall be sold at wholesale in cases, boxes, or containers ~~which that~~ shall be plainly labeled as:
(1) Grade AA, Grade A, or Grade B; and ~~as~~
(2) to size, "Jumbo", "Extra Large", "Large", "Medium", "Small", or "Pee Wee";
according to standards of quality and size established in this article. (*State Egg Board; Reg 3, Title I, Sec 1, filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 82; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 10. 370 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-2 Consumer packages; date requirements

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers) shall:
(1) be legibly dated (month and day or consecutive day of the year) the day the eggs were packed; and ~~shall~~
(2) bear an expiration date of no more than thirty (30) days from date of pack, excluding date of pack.
Shell eggs labeled AA shall bear in distinctly legible form an expiration date of no more than ten (10) days from date of pack excluding date of pack. The expiration date shall be stated as the month and day, for example, April 3 or 4-3, preceded by the letters "EXP" or "SELL BY". Quality is best if sold by the expiration date. (*State Egg Board; Reg 3, Title I, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Nov 23, 1981, 9:30 a.m.: 5 IR 33, eff Jan 1, 1982; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; filed Feb 3, 1987, 2:00 p.m.: 10 IR 1225; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 11. 370 IAC 1-3-3 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-3 Consumer packages; packer identification

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 3. All eggs offered for sale in consumer packages (cases, boxes, baskets, or containers) shall be labeled with one (1) of the following means of identification:

- (1) Name and address of packer.
- (2) Indiana state egg license number, **for example, IN-000.**
- (3) United States Department of Agriculture plant number, **for example, P-000.**
- (4) Egg license number from another state, provided the number is on file in writing at the state egg board office.

(5) United States Department of Agriculture Shell Egg Surveillance number, including state code and handler code, for example, 18-0000. Note: The Shell Egg Surveillance registrant number contains a state code, county code, and handler code. Do not include the county code, only state and handler number.

All eggs offered for sale in cases, boxes, or cartons shall contain labeling ~~which~~ **that** indicates refrigeration is required. **Additionally, all cartons of shell eggs shall bear the statement, "SAFE HANDLING INSTRUCTIONS: To prevent illness from bacteria: Keep eggs refrigerated, cook eggs until yolks are firm, and cook foods containing eggs thoroughly." The statement shall appear prominently and conspicuously, with the words "SAFE HANDLING INSTRUCTIONS" in bold type. The statement shall be set off in a box by use of hairlines. Shell eggs that have been specifically processed to destroy all viable salmonella shall be exempt from this requirement.** (State Egg Board; Reg 3, Title I, Sec 3; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 12. 370 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-3-4 Restricted eggs; definition; labeling

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 4. (a) ~~Public Law 91-597~~ **Regulations Governing the Inspection of Eggs (7 CFR 57)** requires that eggs classed as restricted eggs, dirties, checks, leakers, ~~inedibles~~, and loss and incubator rejects as well as graded eggs, exceeding the tolerances allowed for restricted eggs in United States Grade B standards must be labeled with certain required information. (Leakers ~~and~~ loss ~~inedibles~~, and incubator rejects must also be denatured or decharacterized at the point of grading.) Labeling must be legible and conspicuous. The name and address of the packer must appear on each case or label.

(b) Examples of labeling shall be as follows:

<p>Restricted Eggs for Processing Only in an Official USDA Egg Products Plant.</p> <p>Name _____</p> <p>Address _____ Zip _____</p>

<p>Dirty and Checked Eggs for Processing Only in an Official USDA Egg Products Plant.</p> <p>Name _____</p> <p>Address _____ Zip _____</p>
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(c) Labeling for loss, leakers, ~~inedibles~~, and incubator rejects shall be as follows:

<p style="text-align: center;">Restricted Eggs. Not to be Used as Human Food.</p> <p>Name _____</p> <p>Address _____ Zip _____</p>
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<p style="text-align: center;">Denatured Inedible Egg Products. Not to be Used as Human Food.</p> <p>Name _____</p> <p>Address _____ Zip _____</p>

(State Egg Board; Reg 3, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 83; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1776; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 13. 370 IAC 1-4-1 IS AMENDED TO READ AS FOLLOWS:

Rule 4. Inspection and Noncompliance

370 IAC 1-4-1 Inspection

Authority: IC 16-42-11-5

Affected: IC 16-6-1-2; IC 16-42-11-12

Sec. 1. All inspectors named by the ~~Director~~ **dean of agriculture** of the Purdue University ~~Agricultural Experiment Station~~ as provided for in this ~~act~~, **article**, shall, in the inspection of eggs, be governed by the rules ~~and regulations~~ of the state egg board, ~~These rules and regulations are to include~~ **including** the standards of quality and weight. (State Egg Board; Reg 4, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 14. 370 IAC 1-4-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-4-2 Removal of below standard eggs

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. Shell eggs offered for sale at retail or wholesale and found to be below the minimum standards and requirements of quality ~~and/or or~~ **weight, or both**, for grade and size marked, shall be removed at the time of inspection. (State Egg Board; Reg 4, Title II, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937)

SECTION 15. 370 IAC 1-4-3 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-4-3 Violations; inspectors' duties

Authority: IC 16-42-11-5

Affected: IC 16-6-1-2; IC 16-42-11-12

Sec. 3. The state egg board hereby requests the shell egg inspectors to follow the procedure outlined ~~below~~ **as follows** when ~~the~~ product is found in violation of this ~~act~~, **article**:

- (1) Discuss **the** problem with parties involved and request their cooperation in removing product from sale.
- (2) Call **the** state office when cooperation with the parties involved is not received.

(3) Prepare **the** report in writing to the state egg board giving details of **the** violation and disposition of **the** product, with **a** copy to **the** party or parties involved in **the** violation.
(*State Egg Board; Reg 4, Title II, Sec 2; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 16. 370 IAC 1-5-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-5-1 Advertisements

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. At retail, if the price is quoted, all quotations or advertising of any kind by any media connected with the sale of eggs by registrants of this ~~act~~, **article**, shall plainly state the grade and size of the eggs so priced in such quotations or advertisements. (*State Egg Board; Reg 5, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 17. 370 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-6-1 Grade and size identification

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. **(a)** All packages, of whatever kind, in which eggs are offered for sale by registrants under this article shall be marked as:

- (1)** Grade AA;
- (2)** Grade A; or
- (3)** Grade B.

(b) All packages bearing the grade mark shall be identified as to size by:

- (1)** Jumbo;
- (2)** Ex-Large;
- (3)** Large;
- (4)** Medium;
- (5)** Small; or
- (6)** Pee Wee.

(*State Egg Board; Reg 6, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 84; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 18. 370 IAC 1-8-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-8-1 Fresh eggs

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. Fresh eggs shall meet the minimum standards and requirements of quality and weight under 370 IAC 1-1-3 for:

- (1)** Indiana Grade AA;
- (2)** Indiana Grade A; or
- (3)** Indiana Grade B;

eggs. (*State Egg Board; Reg 8, Title I, Sec 1; filed Aug 14, 1973, 1:30 p.m.: Rules and Regs. 1974, p. 85; filed Nov 23, 1981, 9:30 a.m.: 5 IR 34, eff Jan 1, 1982; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 19. 370 IAC 1-9-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-9-1 Record keeping by wholesalers

Authority: IC 16-42-11-5

Affected: IC 16-42-11-10

Sec. 1. (a) All wholesalers shall keep such records as necessary to indicate accurately the case (**thirty** (30) dozen) volume of shell eggs sold in Indiana. These records shall include **the following**:

- (1) Invoices showing purchases and sales of shell eggs.
- (2) A sales ledger showing all egg sales made at wholesale in Indiana to any retailer, hotel, restaurant, hospital, school, nursing home, **or** state or federal institution.
- (3) A cumulative summary of sales made in Indiana.

(b) The ~~above~~ records **required in subsection (a)** shall be retained by the wholesaler for a period of one (**1**) calendar year exclusive of the current operating quarter. (*State Egg Board; 370 IAC 1-9-1; filed Feb 13, 1985, 1:57 p.m.: 8 IR 794; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 20. 370 IAC 1-10-1 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-10-1 Shell egg packers

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 1. (a) This section establishes minimum sanitation and operating requirements for shell egg grading plants engaged in grading, storage, packaging, and distribution of eggs.

(b) Buildings shall be of sound construction so as to prevent the entrance or harboring of vermin.

(c) All areas and rooms in which eggs are handled, graded, and packed shall be kept clean.

(d) Cooler rooms shall be free from objectionable odors, such as mustiness or a rotten odor, and shall be maintained in a clean, sanitary condition.

(e) Egg cleaning equipment shall be kept in good repair and shall be thoroughly cleaned after each day's use or more often if necessary to maintain a sanitary condition. The wash water should be potable and maintained at a temperature of ninety (**90**) degrees Fahrenheit (~~90°F~~) minimum. The wash water temperature must be at least twenty (**20**) degrees Fahrenheit (~~20°F~~) greater than the egg temperature. The wash water shall be replaced frequently, a minimum of once a day, and the detergent and sanitizer shall be kept at an effective level at all times.

(f) During any rest period, or at anytime when the equipment is not in operation, the eggs shall be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a build-up of heat.

(g) Only ~~the United States Department of Agriculture or federally~~ approved cleaning and sanitizing compounds may be used ~~Current list of proprietary substances and nonfood compounds.~~ **in shell egg processing plants. To assure that only compounds are used for the purpose intended, plant management must provide the inspector, upon request, with a written guaranty stating that each compound used in the shell egg processing plant complies with federal food laws and regulations, and can be legally used in the shell egg processing plant for the purpose intended.** Washed eggs shall be reasonably dry before containing or casing. (*State Egg Board; 370 IAC 1-10-1; filed Feb 3, 1987, 2:00 p.m.: 10 IR 1226; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1777; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

SECTION 21. 370 IAC 1-10-2 IS AMENDED TO READ AS FOLLOWS:

370 IAC 1-10-2 Retailers and wholesalers

Authority: IC 16-42-11-5

Affected: IC 16-42-11-5

Sec. 2. (a) This section establishes minimum sanitation requirements for retailers and wholesalers.

(b) Display cases in which eggs are offered for sale to consumers must be clean and free from any substances or conditions whereby the eggs could become adulterated through absorption of bacteria or odors ~~which~~ **that** could affect the quality or taste of eggs.

(c) All storage areas where eggs are held must be maintained in a clean and sanitary condition. (*State Egg Board; 370 IAC 1-10-2; filed Feb 12, 1993, 5:00 p.m.: 16 IR 1778; readopted filed Nov 7, 2001, 3:22 p.m.: 25 IR 937*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 6, 2002 at 9:30 a.m., at Purdue University, Purdue Memorial Union, Room 258, West Lafayette, Indiana the State Egg Board will hold a public hearing on proposed amendments concerning requirements for processing, transportation, and consumer container identification for shell eggs, including updating matters incorporated by reference. Adds a requirement for safe handling instructions for egg cartons. Makes other substantive and technical changes. Copies of these rules are now on file at the State Egg Board, Purdue University, Poultry Building, Room 101, West Lafayette, Indiana and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David J. Steen
Executive Administrator
State Egg Board